

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DAVID S. YARNALL,)
)
Plaintiff,)
)
v.) Civ. No. 05-527-SLR
)
CPL. ANTHONY MENDEZ and)
DELAWARE STATE POLICE TROOP 7,)
)
Defendants.)

DAVID S. YARNALL,)
)
Plaintiff,)
)
v.) Civ. No. 06-501-SLR
)
PTLM LOWE and UNKNOWN OFFICERS)
WHO RESPONDED TO SCENE OF)
MILLSBORO POLICE,)
)
Defendants.)

DAVID S. YARNALL,)
)
Plaintiff,)
)
v.) Civ. No. 06-529-SLR
)
PFC BUCHERT,)
)
Defendant.)

ORDER

Plaintiff David S. Yarnall initiated three separate lawsuits

pursuant to 42 U.S.C. § 1983 as captioned above. He proceeds pro se and was granted permission to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

The complaints in Civil Case Nos. 05-527-SLR, 06-501-SLR, and 06-529-SLR involve similar allegations of excessive force, all occurring at the same place - next to Grotto Pizza - and on the same date - May 11, 2005. The parties are different, but it appears they all are police officers with either the Delaware State Police or the Millsboro Police Department.

Federal Rule of Civil Procedure 42 provides for consolidation "[w]hen actions involv[e] a common question of law or fact. . .to avoid unnecessary costs or delay." Fed. R. Civ. P. 42(a). "District courts have the inherent authority to order consolidation *sua sponte*." Plimpton v. Cooper, 141 F. Supp. 2d 573, 575 (W.D. N.C. 2001) (citing Pickle v. Char Lee Seafood, Inc., 174 F.3d 444 (4th Cir. 1999)). All three complaints concern common questions of law and fact.

At Wilmington this 20th day of September, 2006, IT IS
THEREFORE ORDERED that:

1. Civ. Nos. 05-527-SLR, 06-501-SLR, and 06-529-SLR are CONSOLIDATED for all purposes.
2. The caption of the Consolidated Action is as follows:

DAVID S. YARNALL,)
)
Plaintiff,)
) CONSOLIDATED
v.) Civ. No. 05-527-SLR
) Civ. No. 06-501-SLR
CPL. ANTHONY MENDEZ, DELAWARE) Civ. No. 06-529-SLR
STATE POLICE TROOP 7,)
PTLM LOWE, UNKNOWN OFFICERS)
WHO RESPONDED TO SCENE OF)
MILLSBORO POLICE, and)
PFC BUCHERT,)
)
Defendants.)

3. The motion to amend/correct filed by plaintiff (D.I. 36) is **granted** and shall be filed as an amended complaint.
4. The complaint (D.I. 2) and amended complaint (D.I. 36) filed in Civ No. 05-527-SLR, the complaint (D.I. 2) filed in Civ. No. 06-501-SLR, and the complaint (D.I. 2) filed in Civ. No. 06-529-SLR, together will stand as the complaint in this Consolidated Action.

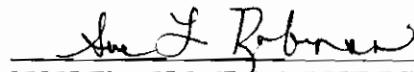
5. Should it become necessary during the course of this litigation for defendants to answer the allegations, the defendants are to answer the complaint that contains the allegations against them, be it Civ No. 05-527-SLR, Civ. No. 06-501-SLR, 06-529-SLR or any of the three complaints. The court is aware that an answer to the original complaint was filed in Civ. No. 05-527-SLR at D.I. 23.

6. All documents previously filed to date in the cases

consolidated herein are deemed filed and are part of the record in the Consolidated Action.

7. Plaintiff is not required to pay any previously assessed fees or the \$350.00 filing fee in Civ. No. 06-529-SLR. The clerk of the court is directed to send a copy of this order to the appropriate prison business office.

8. Hereafter, court pleadings and documents shall be filed **only** in Civil No. 05-527-SLR. The court will not accept pleadings filed in 06-501-SLR or 06-529-SLR.



UNITED STATES DISTRICT JUDGE